

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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EDWARD BURGESS,

Plaintiff,

-v.-

Civil Action No.  
9:08-cv-725 (GLS/DRH)

LESTER N. WRIGHT, Associate  
Commissioner/Chief Medical Officer;  
LARRY SEARS, Superintendent; GLENN  
CHAMPAGNE, Facility Health Service  
Director; DR. CAHILL, Facility Director;  
LOUISE TICHENOR, Dr.; and MR. BOYEA,  
Inmate Grievance Program Supervisor,

Defendants.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

EDWARD BURGESS  
Plaintiff, *Pro Se*  
524 Mellon Street  
Pittsburgh, Pennsylvania 15206

**FOR THE RESPONDENT:**

HON. ANDREW M. CUOMO  
Attorney General for the State  
of New York  
The Capitol  
Albany, New York 12224

MEGAN M. BROWN, ESQ.  
Assistant U.S. Attorney

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed August 19, 2009. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed August 19, 2009 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the defendant's motion to dismiss (Dkt. No. 24) is GRANTED as to defendants Wright and Sears in all respects and that those two defendants be DISMISSED from the action, and it is further

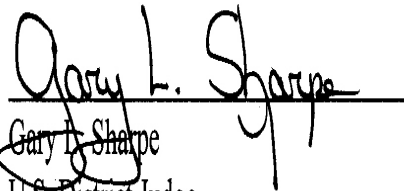
ORDERED, that the defendant's motion to dismiss is DENIED as to Burgess' Eighth Amendment claim regarding medical treatment for his neck, and it is further

ORDERED, that the defendants' motion to dismiss is GRANTED in all other respects to all remaining claims, and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: September 11, 2009  
Albany, New York

  
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Gary L. Sharpe  
U.S. District Judge